

DATA SHARING AND CONFIDENTIALITY AGREEMENT

INCLUDING

Bill of Rights for Data Privacy and Security

AND

Vendor Information Regarding Data Privacy and Security

This Data Sharing and Confidentiality Agreement (the “Agreement”) is made and entered into by and between **Mystery Science** (the “Vendor”) and Belfast Central School District.

WHEREAS, Belfast Central School District and Vendor are parties to a contract or other written agreement (the “Contract”) pursuant to which the Vendor may receive student data and/or teacher or principal data (“Protected Data”) that is protected under New York Education Law Section 2-d and Part 121 of the Regulations of the Commissioner of Education (collectively referred to as “Section 2-d”) from BELFAST CENTRAL SCHOOL DISTRICT for purposes of providing certain products or services to BELFAST CENTRAL SCHOOL DISTRICT; and

WHEREAS, both BELFAST CENTRAL SCHOOL DISTRICT and Vendor are desirous of fulfilling their respective obligations under New York Education Law Section 2-d;

NOW THEREFORE, in consideration of the mutual promises and covenants contained in the Contract, as well as, this Agreement the parties hereto mutually agree as follows:

1. Confidentiality

- a. Vendor, its employees, and/or agents agree that all information obtained in connection with the services provided for in the Agreement is deemed confidential information.
- b. Vendor further agrees to maintain the confidentiality of the Protected Data it receives in accordance with federal and state law and that any information obtained will not be revealed to any persons, firms or organizations.

2. Data Protections and Internal Controls

- a. Vendor acknowledges that it may receive and/or come into contact with personally identifiable information, as defined by New York Education Law Section 2-d, from records maintained by BELFAST CENTRAL SCHOOL DISTRICT that directly relate to a student(s) (hereinafter referred to as “education record”). Questions submitted by students to teachers and parental-approved optional student videos shall not be considered Protected Data and shall be owned by Vendor.
- b. Vendor understands and acknowledges that it shall have in place sufficient protections and internal controls to ensure that information is safeguarded in accordance with applicable laws and regulations, and understands and agrees that it is responsible for complying with state data security and privacy standards for all personally identifiable information from education records, and it shall:
 1. Limit internal access to education records to those individuals that are determined to have legitimate educational interests; and

2. Not use the education records for any other purpose than those explicitly authorized in the Contract and/or Agreement; and
3. Maintain reasonable administrative, technical and physical safeguards to protect the security, confidentiality and integrity of education records in its custody; and
4. To use encryption technology to protect Protected Data in its custody while in motion or at rest, using a technology or methodology specified by the secretary of the United States Department of Health and Human Services in guidance issued under Section 13402(H)(2) of Public Law 111-5.

3. Data Security and Privacy Plan

- a. Vendor agrees to have a Data Security and Privacy Plan in place to protect the confidentiality, privacy and security of the Protected Data it receives from BELFAST CENTRAL SCHOOL DISTRICT.
- b. Vendor understands and agrees that it is responsible for submitting a Data Security and Privacy Plan to BELFAST CENTRAL SCHOOL DISTRICT prior to the start of the term of the Agreement, and it shall:
 1. Outline how all state, federal and local data security and privacy contract requirements will be implemented over the life of the contract consistent with BELFAST CENTRAL SCHOOL DISTRICT's policy on data security and privacy, as adopted.
 2. Outline specific administrative, operational and technical safeguards and practices in place to protect Protected Data that it receives from BELFAST CENTRAL SCHOOL DISTRICT under the Contract.
 3. Outline the training requirement established by the Vendor for all employees who will receive personally identifiable information from student records (hereinafter referred to as "student data").

4. Notice of Breach and Unauthorized Release

- a. In the event of a breach of this Agreement and unauthorized release of student data, the Vendor shall:
 1. Immediately notify BELFAST CENTRAL SCHOOL DISTRICT in the most expedient way possible and without unreasonable delay, but no more than seven (7) calendar days after Vendor has discovered or been informed of the breach or authorized release.
 2. Advise BELFAST CENTRAL SCHOOL DISTRICT as to the nature of the breach and steps Vendor has taken to minimize said breach.
- b. In the case of required notification to a parent or eligible student, the Vendor shall:

1. Promptly reimburse BELFAST CENTRAL SCHOOL DISTRICT for the full costs of such notification.
- c. Vendor will cooperate with BELFAST CENTRAL SCHOOL DISTRICT and provide as much information as possible directly to BELFAST CENTRAL SCHOOL DISTRICT about the incident, including but not limited to:
 1. The description of the incident;
 2. The date of the incident;
 3. The date Vendor discovered or was informed of the incident;
 4. A description of the types of Protected Data involved;
 5. An estimate of the number of records affected;
 6. The schools within BELFAST CENTRAL SCHOOL DISTRICT affected;
 7. What the Vendor has done or plans to do to investigate the incident, stop the breach and mitigate any further unauthorized access or release of Protected Data; and
 8. The contact information for Vendor representatives who can assist affected individuals that may have additional questions.
- d. The Vendor shall indemnify and hold BELFAST CENTRAL SCHOOL DISTRICT harmless from any claims arising from its breach within the Data Sharing and Confidentiality Agreement confidentiality and data security and privacy standards provision.
- e. Vendor acknowledges that upon initial notification from Vendor, BELFAST CENTRAL SCHOOL DISTRICT, as the educational agency with which Vendor contracts, has an obligation under Section 2-d to in turn notify the Chief Privacy Officer in the New York State Education Department (“CPO”). Vendor agrees not to provide this notification to the CPO directly unless requested by BELFAST CENTRAL SCHOOL DISTRICT or otherwise required by law. In the event the CPO contacts Vendor directly or requests more information from Vendor regarding the incident after having been initially informed of the incident by BELFAST CENTRAL SCHOOL DISTRICT, Vendor will promptly inform BELFAST CENTRAL SCHOOL DISTRICT of the same.

5. Vendor Information

Vendor understands that as part of BELFAST CENTRAL SCHOOL DISTRICT’s obligations under New York Education Law Section 2-d, Vendor is responsible for providing BELFAST CENTRAL SCHOOL DISTRICT with Vendor information (see Vendor Information for Data Privacy and Security) to include:

- a. Exclusive purposes for which the student data will be used;

- b. How Vendor will ensure that subcontractors, persons or entities that Vendor will share the student data with, if any, will abide by data protection and security requirements;
- c. That student data will be returned or destroyed upon expiration of the Agreement, upon the written request of BELFAST CENTRAL SCHOOL DISTRICT;
- d. If and how a parent, student, or eligible teacher may challenge the accuracy of the student/teacher data that is collected; and
- e. Where the student data will be stored (described in such a manner as to protect data security), and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

6. Termination or Expiration of Contract and/or Agreement

- a. Upon termination of the Agreement, upon written request of BELFAST CENTRAL SCHOOL DISTRICT Vendor shall return or destroy all confidential information obtained in connection with the services provided therein and/or student data. Destruction of the confidential information and/or student data shall be accomplished utilizing an approved method of confidential destruction, including, shredding, burning or certified/witnessed destruction of physical materials and verified erasure of magnetic media using approved methods of electronic file destruction. The parties further agree that the terms and conditions set forth herein shall survive the expiration and/or termination of the Agreement.
- b. If requested in writing by BELFAST CENTRAL SCHOOL DISTRICT, Vendor will assist BELFAST CENTRAL SCHOOL DISTRICT in exporting all Protected Data previously received back to BELFAST CENTRAL SCHOOL DISTRICT for its own use, prior to deletion, in such formats as may be requested by BELFAST CENTRAL SCHOOL DISTRICT.
- c. In the event the Contract is assigned to a successor Vendor (to the extent authorized by the Contract), the Vendor will cooperate with BELFAST CENTRAL SCHOOL DISTRICT as necessary to transition Protected Data to the successor Vendor prior to deletion.
- d. Neither Vendor nor any of its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data will retain any Protected Data, copies, summaries or extracts of the Protected Data, or any de-identified Protected Data, on any storage medium whatsoever. Upon request, Vendor and/or its subcontractors or other authorized persons or entities to whom it has disclosed Protected Data, as applicable, will provide BELFAST CENTRAL SCHOOL DISTRICT with a certification from an appropriate officer that these requirements have been satisfied in full.

PARENTS' BILL OF RIGHTS FOR DATA PRIVACY AND SECURITY

BELFAST CENTRAL SCHOOL DISTRICT is committed to protecting the privacy and security of student data and teacher and principal data. In accordance with New York Education Law Section 2-d and its implementing regulations, BELFAST CENTRAL SCHOOL DISTRICT informs the school community of the following:

1. A student's personally identifiable information cannot be sold or released for any commercial purposes.
2. Parents have the right to inspect and review the complete contents of their child's education record.
3. State and federal laws protect the confidentiality of personally identifiable information, and safeguards associated with industry standards and best practices, including but not limited to encryption, firewalls, and password protection, must be in place when data is stored or transferred.
4. A complete list of all student data elements collected by New York State is available for public review at the following website <http://www.nysed.gov/data-privacy-security/student-data-inventory> or by writing to the Office of Information and Reporting Services, New York State Education Department, Room 865 EBA, 89 Washington Avenue, Albany, New York 12234.
5. Parents have the right to submit complaints about possible breaches of student data addressed. Complaints should be directed in writing to BELFAST CENTRAL SCHOOL DISTRICT Data Privacy Officer, 1825 Windfall Road, Olean, New York 14760 or by using the form available at the following website: <https://caboces.org/resources/new-york-state-education-law-2d/report-an-improper-disclosure/>. Complaints may also be directed in writing to Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, New York 12234 or by using the form available at the following website: <http://www.nysed.gov/data-privacy-security/report-improper-disclosure>

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first written above.

Katy Jenkins

Operations Manager

Authorized Vendor Signature

06/02/2020

Date

Wendy Butler

Authorized BELFAST CENTRAL SCHOOL DISTRICT Signature

6/3/20

Date

VENDOR INFORMATION REGARDING DATA PRIVACY AND SECURITY

Vendor: Mystery Science

Product: Mystery Science

Collects: ☐ Student Data

☐ Teacher or Principal Data

☒ Does not collect either

Educational agencies including Cattaraugus-Allegany-Erie-Wyoming BOCES are required to *post information about [third-party contracts](#) on the agency's website* with the Parents Bill of Rights. To that end, please complete the table below with information relevant to [NYS Education Law 2-d](#) and [Part 121.3 of the Commissioner's Regulations](#). Note that this applies to all software applications and to mobile applications ("apps").

Part 1: Exclusive Purposes for Data Use

The exclusive purposes for which the student data (or teacher or principal data) will be used by Vendor:

The services provided are access by BELFAST CENTRAL SCHOOL DISTRICT's teachers and staff to the online digital science curriculum at [mysteryscience.com](#) and [mysterydoug.com](#) websites. The services are intended for use by teachers and do not require the BELFAST CENTRAL SCHOOL DISTRICT to provide any Protected Data. The name and email addresses of BELFAST CENTRAL SCHOOL DISTRICT's teachers and staff are collected when accounts are created for them. The websites also collect information on how the BELFAST CENTRAL SCHOOL DISTRICT's teachers and staff interact with the services in order for Vendor to improve the services and to provide recommendations to users. Student accounts are not created and student emails are not intentionally collected. Teachers are given a student link URL that they may send separately to students who have missed a lesson. This student link URL provides limited access and does not require a login.

A teacher may optionally submit a science question that a student has asked. The teacher submits the question and the first name and grade of the student. If Vendor wishes to feature the student in a video on the websites listed above, Vendor will send the teacher a permission form to obtain parental or guardian consent for the student to participate in the recording and for Vendor's use of the video. Parent/guardian information will be collected on the permission form. Participation in this recorded video is optional and will never proceed without a signed parental/guardian consent form. Submitted questions will be retained and used by Vendor and are not considered student data.

Part 2: Subcontractor Oversight Details – Select the appropriate option below.

☐ This Contract has no subcontractors.

☒ This Contract has subcontractors. As such, Vendor will take the following steps to ensure that any subcontractors, assignees, or other agents who see, or receive, this Protected Data are contractually required to obey the same data protection and security requirements that Vendor is required to obey under state and federal law:

Vendor will require those subcontractors or other authorized persons or entities to whom it will disclose any Protected Data to have entered into written agreements whereby the subcontractors agree to protect Protected Data in a manner consistent with the terms of the Contract and applicable federal law and regulations.

Part 3: Contract Lifecycle Practices

The Contract expires on June 30, 2021 unless renewed or

automatically extended for a term pursuant to the Contract. When the Contract expires, upon written request of BELFAST CENTRAL SCHOOL DISTRICT, Protected Data will be deleted by Vendor, via shredding, returning of data, mass deletion, and upon written request, may be exported for use by BELFAST CENTRAL SCHOOL DISTRICT before deletion.

Part 4: Student Educational Records / Improper Disclosure

A. For information on FERPA (Family Educational Rights and Privacy Act), which is the federal law that protects the privacy of student education records, visit the [U.S. Department of Education FERPA website](#).

B. A complaint or report of improper disclosure may be completed by submitting the [Improper Disclosure Report](#) form.

Part 5: Security Practices

A. Protected Data provided to Vendor will be stored: (include *where* and *how*)

Vendor will not be receiving any Protected Data.

B. The security protections taken to ensure data will be protected that align with the [NIST Cybersecurity Framework](#) and industry best practices include:

Vendor shall secure usernames, passwords, and any other means of gaining access to the services or to any Protected Data it may receive, at a level suggested by the applicable standards, as set forth in Article 4.3 of NIST 800-63-3. Vendor shall only provide access to Protected Data to employees or contractors that are performing the services. Employees with access to Protected Data shall have signed confidentiality agreements regarding said Protected Data. All employees with access to Protected Data shall be subject to criminal background checks in compliance with state and local ordinances.

Both parties agree to maintain security protocols that meet industry standards in the transfer or transmission of any data, including ensuring that data may only be viewed or accessed by parties legally allowed to do so. Vendor shall maintain all data obtained or generated pursuant to the Contract in a secure digital environment and not copy, reproduce, or transmit data obtained pursuant to the Contract, except as necessary to fulfill the purpose of data requests by BELFAST CENTRAL SCHOOL DISTRICT.

Vendor shall provide periodic security training to those of its employees who operate or have access to the system. Further, Vendor shall provide BELFAST CENTRAL SCHOOL DISTRICT with contact information of an employee who BELFAST CENTRAL SCHOOL DISTRICT may contact if there are any security concerns or questions.

When the service is accessed using a supported web browser, Vendor shall employ industry standard measures to protect data from unauthorized access. The service security measures shall include server authentication and data encryption. Vendor shall host data pursuant to the Contract in an environment using a firewall that is updated according to industry standards.

Vendor shall have entered into written agreements whereby its subcontractors agree to secure and protect Protected Data. Vendor shall periodically conduct or review compliance monitoring and assessments of subcontractors to determine their compliance.

Vendor further acknowledges and agrees to conduct digital and physical periodic (no less than semi-annual) risk assessments and remediate any identified security and privacy vulnerabilities in a timely manner.

Part 6: Encryption Practices

☒ By checking this box, contractor certifies that data encryption is applied in accordance with [NYS Education Law Section 2-d 5\(f\)\(5\)](#).